

DETAILED ACTION

Notice to Applicant/Allowance

[1] This communication is in response to the amendment filed 29 June 2010. It is noted that this application benefits from Provisional Patent Application Serial No. 60/393,887 filed 5 July 2002. Claims 5, 7, 9, and 10 have been previously cancelled. Claim 1 has been amended. Claim 1 has been further amended by Examiner's Amendment below. Claims 3 and 11 are cancelled by Examiner's Amendment below. Claims 1, 4, 6, 8, and 12 are allowed.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

[2] Previous rejection(s) of claims 1-4, 6, 8, 11, and 12 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention have been overcome by the Examiner's Amendment entered below and is/are hereby withdrawn.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

[3] Previous rejection(s) of claims 1-4, 6, 7, 11, and 12 under 35 U.S.C. 101 because the claimed invention is directed to nonstatutory subject matter have been overcome by the amendment(s) to the subject claim(s) and are hereby withdrawn.

Allowable Subject Matter

[4] Claims 1, 2, 4, 6, 8, and 10 are allowed.

Claim 1 is allowed as amended by the Examiner's Amendment below. Claims 3 and 11 are cancelled by Examiner's Amendment below. Claims 2, 4, 6, 8, and 12 are allowed as they appear in the response filed 29 June 2010.

EXAMINER'S AMENDMENT

[5] An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Nathaniel Wallace (Reg. #48,909) on 9 September 2010.

The application has been amended as follows:

Claims 3 and 11 are cancelled.

Please amend claim 1 as follows (full text of the amended claims appears below):

1. A non-transitory computer readable medium embodying instructions executable by a processor to perform a method of generating a feasible schedule for n jobs given a duration and a revisit time for each job, comprising:

receiving input data describing the n jobs, the duration, and the revisit time for each of the n jobs; determining from the input data that a round robin schedule is not possible and performing steps for determining a feasible schedule, wherein determining the feasible schedule comprises,

calculating a theoretical probability for each of the n jobs, wherein the theoretical probability is a probability that a job will be performed next;

calculating an actual probability for each of the n jobs wherein the actual probability is a relative amount of time that each job is performed;

creating a potential schedule for the n jobs based on the theoretical probabilities and the actual probabilities;

searching for the feasible schedule of the n jobs from the potential schedule of the n jobs; and outputting the feasible schedule wherein the n jobs are scheduled according to the feasible schedule.

REASONS FOR ALLOWANCE

[6] The following is an examiner's statement of reasons for allowance:

Claim 1

The prior art of record neither anticipates nor supports a conclusion of obviousness with respect to the allowable subject matter of claim 1. The prior art of record fails to define a “non-transitory computer readable medium to perform a method of generating a feasible schedule...comprising;...creating a potential schedule for the n jobs based on the theoretical and the actual probabilities;”.

Applicant's remarks filed in the amendment filed 6 January 2010 are compelling and commensurate with both the original disclosure and the claims as amended.

The most closely applicable prior art of record is referred to in the Office Action mailed 6 October 2009 as Feinberg et al., “Sensor Resource Management for an Airborne Early Warning Radar”, Proceedings of SPIE Vol. 4728, Signal and Data Processing of Small Targets. While the noted reference describes elements of the claimed invention, the reference is describing Applicant's own work and has been overcome by the affidavit filed under 37 CFR 1.132 on 30 June 2008.

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Claims 2, 4, 6, 8, and 12

Claims 2, 4, 6, 8, and 12 all depend from allowable claim 1. Claims 2, 4, 6, 8, and 12 are allowable for reasons consistent with those identified with respect to claim 1.

Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. David Rines whose telephone number is (571)272-5585. The examiner can normally be reached on 8:30am - 5:00pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on 571-272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. David Rines/
Primary Examiner, Art Unit 3623